

# **Amended Delaware Regulations Governing Beach Protection and Use of Beaches go into effect Aug. 11**



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DOVER – Final amendments to Delaware’s Regulations Governing Beach Protection and the Use of Beaches – that implement legislative changes to the state’s Beach Preservation Act and clarify and codify the process for construction to help preserve the state’s fragile dune and beach system – will go into effect Aug. 11. The amendments, pursuant to 7DE Admin. Code §5102, were approved July 15 in an order signed by DNREC Secretary David Small, and will be submitted to the State of Delaware’s Register of Regulations for publication Aug. 1.

Delaware’s Beach Preservation Act was passed in 1972 as the General Assembly recognized that Delaware’s beaches were rapidly deteriorating due to a combination of natural processes and continuing encroachment. DNREC was charged through the act to enhance, preserve and protect the public and private beaches of the state and to mitigate beach erosion and minimize storm damage.

A significant amendment to the Beach Preservation Act was passed by the General Assembly in 1996, requiring DNREC to take additional steps to minimize the impacts on the beach and dunes from any construction that took place seaward of the building line established to protect coastal dunes. The methodology for achieving the objective stated in the

legislation was developed by the Department as a set of procedures and guidance that became known as “The Four-Step Process.” This guidance had not been incorporated into Delaware’s beach regulations until now.

“Delaware’s beaches and dunes are among our most vulnerable natural resources, a significant driver behind our state’s economy and critical to protecting our coastal areas,” said Secretary Small. “Incorporating the Four-Step Process into the regulation, as it has existed and been applied during the past 20 years, assures consistency, transparency and certainty for the public. It also allows the development and redevelopment of these sensitive areas to occur in an orderly and equitable fashion.”

Current Regulations Governing Beach Protection and the Use of Beaches were adopted in 1983. Since then, several amendments have been made to Delaware’s Beach Preservation Act that had not yet been incorporated into the regulations, along with several procedures used over the years to guide DNREC’s mission as stated in both the Beach Preservation Act and the state regulations for beach protection and use.

Notable proposed changes include:

- Changes to the Beach Preservation Act (Del. Code Title 7, Ch. 68) define a “Regulated Area,” which requires formal approval for construction activities for the first three buildable lots landward of the Mean High Waterline. “Regulated area” is the specific area within the defined beach that DNREC is directed to regulate construction of, to preserve dunes and to reduce property damage. The regulated area shall be from the seaward edge of the beach to the landward edge of the third buildable lot in from the mean high water line. This revision expands the amount of lots required to get approval in some areas and reduces it in others. Changes to the Act mandated this change in the regulations.

- The Regulations incorporate amendments to the Beach Preservation Act (Del. Code Title 7, Ch. 68), which direct DNREC to consider the effects of beach nourishment, where maintained to engineering standards, when existing houses located seaward of the Building Line are being reconstructed after being destroyed by an "Act of God or other accidental event."
- Placement and approval of temporary structures are directly addressed in the revised regulations. The placement of temporary structures related to an event lasting 72 hours or less will be exempt from getting approval.
- The Four-Step Process for requiring proposed structures seaward of the Building Line to minimize encroachment onto beach and dunes, which is currently Department policy, is incorporated into the revised regulations.

Secretary's Order 2016-WS-0023 about the amended regulations, as signed by Secretary Small, can be found on the DNREC website at: [http://www.dnrec.delaware.gov/Info/Pages/SecOrders\\_Regulations.aspx](http://www.dnrec.delaware.gov/Info/Pages/SecOrders_Regulations.aspx). Paper or electronic copies of the regulations may be requested by contacting DNREC's Division of Watershed Stewardship's Shoreline & Waterway Management Section at (302) 739-9921.

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